

Breaking up with Your Builder

—By Scott Hobbs

How to lessen the legal and financial consequences when your builder's got to go

It's depressingly clear: You cannot let your current builder finish your dream home. Maybe he's way behind schedule, or he's doing poor work, or you suspect he's dishonest, or he's impossible to deal with. In any event, he's got to go.

But sending him on his way is bound to trigger a contentious lawsuit, huge expenditures, and costly delays. Here are a few ways to prevent (or, if you've gone to contract, at least minimize) the wrong builder's impact on your pocketbook and well-being.

Naturally, pre-contract, you'll check the builder's references. But don't ask for a list of references; ask for a list of all his projects for the past two years. That may flush out a client whose negative experience with your builder must be weighed. Pay as much attention to what the client glides over as to what he stresses. If you hear, "Things were more expensive and took longer than the builder estimated, but he was really nice and delivered a great house," follow up with questions that clarify the extent of those delays and cost overruns. Checking in with local tradespeople (plumbers, electricians, workers at the local lumberyard) may also yield useful information.

Many states put civil lawsuits online (for instance, Connecticut posts its cases at www.jud.ct.gov). This makes it easy to see whether the builder has a history of suing or being sued. (Remember to check at least the business and principals' names.)

below and next page:
Three projects by
Hobbs, Incorporated
that are the result of
a good client-builder
relationship.



All photos courtesy of Hobbs, Incorporated



Don't sign the contract until you understand, and agree to, the builder's allocation of work done at a fixed price and work done under an "allowance." For instance, if you have not yet selected your plumbing fixtures, the builder will estimate their cost as an "allowance"; you'll have to pay the overage if you choose more expensive fixtures. The question is, are his allowances high enough to be realistic, given your tastes?

The contract must spell out everything: Are a finished basement, pool, pool house, and pool walkway included?

Who handles the landscaping, and to what point?

If you're unhappy with the ongoing work, get in touch with team members early, often, and courteously—and put your complaints and agreements in writing. A quick e-mail saying something like "I was glad you agreed to finish the deck by June 19; the timing is really important to me" will be valuable documentation of your oral agreement if you're hauled into court. Print and file each pertinent e-mail, and also save it in your "incoming e-mail" or "outgoing mail" file.

Make sure you understand what steps your contract requires of you before you fire your builder. Follow these rules to the letter: Every shortcut you take can be used

against you should you go to court or arbitration. (For instance, there are almost always notification requirements that take at least several weeks to follow properly.)

Obviously, you should seek the advice of your attorney. And, of course, before you notify the builder of his termination you'll interview other firms to find out their availability and level of experience. Stress the sensitive nature of your inquiry to help prevent the leaking of this information to your current builder.

When you've documented your issues with your builder and lined up his replacement, you can pull the trigger—notify him of your intentions. (You should follow up the phone call with a written notification.) Keep the discussion as courteous and professional as you can. Be open to any ideas he may have on ways to avoid a legal dispute. Telling him off may be tempting, but it could jab his ego so hard that he feels he has to go to court to assuage his pride. This will cost both of you a significant amount of money, time, and further emotional drain. Do whatever you can to avoid that. **ME**

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